HIT Policy Committee Meeting
Draft Transcript
April 5, 2010

Presentation

Judy Sparrow – Office of the National Coordinator – Executive Director
Great. Thank you. Good morning, everybody, and welcome to the HIT Policy Committee. A reminder that this is a federal advisory committee. The public have been invited to dial in, and there will be opportunity at the end of the call for the public to make comment. Members on the line, please remember to identify yourselves when speaking since this is a conference call meeting only. And I'll do a quick roll call now. David Blumenthal?

David Blumenthal – Department of HHS – National Coordinator for Health IT
Here.

Judy Sparrow – Office of the National Coordinator – Executive Director
Paul Tang?

Paul Tang - Palo Alto Medical Foundation - Internist, VP & CMIO
Here.

Judy Sparrow – Office of the National Coordinator – Executive Director
David Bates? Christine Bechtel? Jim Borland? Neil Calman? Rick Chapman?

Rick Chapman – Kindred Healthcare – Chief Administrative Officer/CIO/EVP
Here.

Judy Sparrow – Office of the National Coordinator – Executive Director
Adam Clark?

Adam Clark – Lance Armstrong Foundation – Director for Health Policy
Here.

Judy Sparrow – Office of the National Coordinator – Executive Director
Art Davidson? Connie Delaney? Paul Egerman?

Paul Egerman – eScription – CEO
Good morning.

Judy Sparrow – Office of the National Coordinator – Executive Director
Judy Faulkner? Gayle Harrell? Charles Kennedy? Michael Klag?

Mike Klag – Johns Hopkins Bloomberg School of Public Health – Dean
Here.

Judy Sparrow – Office of the National Coordinator – Executive Director
David Lansky? Deven McGraw?

Deven McGraw - Center for Democracy & Technology – Director
Here.

Judy Sparrow – Office of the National Coordinator – Executive Director
Frank Nemec? Stephen Ondra?

Stephen Ondra – NeHC – Senior Policy Advisor
Here.

Judy Sparrow – Office of the National Coordinator – Executive Director
Marc Probst?

Marc Probst – Intermountain Healthcare – CIO
Here.

Judy Sparrow – Office of the National Coordinator – Executive Director
Latanya Sweeny? Tony Trenkle? Michael Weiner? Scott White?

Scott White – 1199 SEIU – Assistant Director & Technology Project Director
Here.

Judy Sparrow – Office of the National Coordinator – Executive Director
Did I leave anybody off?

Christine Bechtel - National Partnership for Women & Families – VP
Judy, it's Christine Bechtel.

Judy Sparrow – Office of the National Coordinator – Executive Director
Great. Thank you, Christine. With that, I'll turn it over to Dr. Blumenthal and Paul Tang.

David Blumenthal – Department of HHS – National Coordinator for Health IT
Thank you for joining us this morning. Our main business is to hear from Paul and Marc about their proposed recommendations related to the temporary certification notice of proposed rulemaking. And since I'm not wearing my dual hat as chair of the committee, but also head of the ONC, and really shouldn't be involved in making recommendations to ONC about a rule that's under comment, I'm going to let Paul run the proceedings just saying that, as always, I appreciate the hard work that this group has done on not only this, but in making the general recommendations that framed the notice of proposed rulemaking. That the influence of the certification adoption working groups, the first set of recommendations on the ultimate rule are clear to all, and then following up with this additional set of comments. With that, Paul, I don't know if you have anything you want to say. If not, we could turn it over to, Paul Tang that is. If not, we could turn it over to Paul Egerman and Marc.

Paul Tang - Palo Alto Medical Foundation - Internist, VP & CMIO
Thank you, David. This is Paul Tang. I'll just quickly review the agenda. Today we just have two items. They both have to do with the NPRM on the certifications program. Paul Egerman and Marc Probst are going to be walking us through some of their recommendations regarding the temporary certification program. Then, following them, Deven McGraw and Rachel Block will talk about some of the specific aspects having to do with privacy and security. And the reason for this call this morning is to vet this

before the whole committee and have the committee weigh whether it wants to approve this letter that's coming from the committee to ONC. With that, I'd like to turn it over to Paul Egerman and Marc Probst.

Paul Egerman – eScription – CEO
Yes. Thank you very much, Paul. This is Paul Egerman, and I'm going to walk you through our letter. But first, I did want to make some comments about the NPRM and the process itself. Exactly as Dr. Blumenthal just said, our workgroup, the adoption certification workgroup is pleased, I guess gratified would probably be a better expression, that the NPRM seems to be following exactly our recommendations.

In particular, we have two basic recommendations that are very important. One was to create sort of a more objective and transparent certification process. And that is something that is extremely important because we wanted to sort of lift away some of the controversy that existed around certification, and we very much believe that this process describing the NPRM does exactly that. The second recommendation was to create a temporary program, and that's also what this NPRM does.

Now, like I say, we're very pleased with this. We also have made six recommendations. The reason why we made six recommendations was, as we read through the temporary program, there were actually eight different places where, in the text of the temporary program, the NPRM asked for public comment, and so we thought that we could be most helpful to ONC by responding to their requests for comments, so that is what we did.

On one of the issues relating to privacy, we deferred that to the privacy and security workgroup, and Deven will be talking bout that in a minute. There was also one issue we chose not to comment on, I guess because we couldn't think of anything to say or the reason. So I'm going to take you through these six issues, and when you go through these six issues, as you listen to our recommendations, I think you will also see that there is a common theme to a few of them, which is that we have some concern about clarity and communications. We want to make sure that people understand what it means to be certified and what, perhaps, it doesn't mean.

To talk you through the six recommendations, again, these follow the questions in the NPRM. The very first one relates to the certification of EHR modules, the modules being something less than a complete EHR system, and the question that was asked was whether or not there should be an attempt to test one module from one developer against modules written by other developers. We respond to that with our first recommendation by saying, well, while it would be nice to do that testing, there's no real way you can do that. There's not a process described in the IFR. There is not a, there are not standards for that kind of interoperability within an organization.

And so that our recommendation here was simple is that rather than the testing, we made a recommendation that there be a labeling requirement. Labeling is something that a certification process can require and it is described in the NPRM, and so we simply recommended that for modules, there'd be a labeling requirement, and that they be required to be sold with the labels indicating that their HHS certification meant that they had been tested, but that they had not been tested for interoperability with other modules.

Our second commendation related also to how the certification process works, the testing process works. Basically you can test and certify complete EHRs. You can test and certify a module. We recommended that you should also be allowed to test and certify a complete EHR for an ambulatory setting or a complete EHR for a hospital setting. And the reason why we made that recommendation is that the industry is set up that way, in other words, our vendors who only serve the ambulatory marketplace. In

fact, if you were to look at the entire landscape of vendors, you'd probably see that there are many more vendors that serve the ambulatory marketplace, and we think that's an easier point of entry for a certification organization, so we think this would make it easier for certification organizations to become ONC ATCB, which is the new terminology.

The third recommendation relates to location. And, as you can see, all of these are process related recommendations. And, basically, there are two parts to that. First, we made a comment that what was written in the NPRM, we agreed with in terms of location. Testing should occur at the ONC ATCB facility, or it can occur remotely, or it can occur at the site of a healthcare organization. We did repeat in recommendation 3.1 a recommendation that we had made in our original August presentation, which is that if a healthcare organization receives certification by having the certification organization visit their site, since that's a less expensive and easier thing to do, that certification should relate only to that location. It should not be transferrable to any other location, and there are a lot of reasons for that, which I've written up in the document.

The fourth one relates to an interesting issue relating to minimum standards, and basically it has to do with floors on code sets, and we agreed with the process that's written in the NPRM, but we wanted to make it clear that that process would only relate to the testing process and would not relate to existing technology that had already been certified.

The fifth recommendation related to revocation, and it asks whether or not type two violations, a certain number of them should automatically cause one to revoke, the National Coordinator to revoke the status. It's sort of like three strikes and you're out, I guess, to use a baseball analogy. We actually recommended against that. We recommended the National Coordinator should have flexibility.

Then the final recommendation, which is also probably a place we might want to do some discussion had to do with labeling and the stages. Basically we were very concerned about the confusion in the marketplace, and we felt that, in addition to having a label across a logo to indicate that the software had been certified, it should say what stage it was certified against, so it can say it was certified against stage one or stage two, or certified against stage one and stage two. We think that's very important for a lot of reasons, but one reason is, you know, if we look ahead to the clock in six months, nine months, there'll be a point in time where people will start to have stage two certified software in testing and available, and you want to be very clear in the marketplace, especially for somebody who is buying software, is that it enables them to do stage one, stage two, or stage three.

I talked for a while, and we have the document in front of you. Let me pause and see what comments or questions members of the policy committee have.

Paul Tang - Palo Alto Medical Foundation - Internist, VP & CMIO
Thank you very much, Paul. Any questions from members?

Gayle Harrell – Florida – Former State Legislator
This is Gayle Harrell. The only comment I would like to make is that, first of all, I think the clarification on the staging is extremely important. That is probably the most significant thing you have in the letter as far as I can see. The other seems to be pretty, you know, I wasn't quite sure that all the clarification was absolutely essential, but good for you for doing it. But certainly the staging, people need to be very much aware of that. And I would hope that the ONC picks up on that specifically.

Paul Egerman – eScription – CEO

Yes. Thank you, Gayle. Now if you look at the staging recommendation, there's really two parts. One is that the labeling should show the stage that was tested and certified. The other part is that we suggested that both ONC and the accreditation organizations, the ONC ATCB have a Web page that shows what has been tested and certified. By that I mean, it shows the vendor and the version numbers have been tested and certified. The reason for that second piece too is the expression certification right now is being used very freely in the marketplace.

Gayle Harrell – Florida – Former State Legislator
Yes, it is.

Paul Egerman – eScription – CEO
Everybody is saying, oh, this is, you know, this has been certified for this, or this has been certified for that. I think we want as much clarity as we can have about what has really been certified by HHS or by ONC or whatever the terminology is, and also what stage, what version number, what vendor.

David Blumenthal – Department of HHS – National Coordinator for Health IT
Paul, this is David Blumenthal. I had a question about your recommendation about site, self-developed site-based certification. And I wondered whether your recommendation that once such self-developed software was commercialized, that it be re-certified, whether that had to do with the fact that its use in the original site was regenerate and couldn't be generalized, or whether it had to do with fairness to other vendors or both.

Paul Egerman – eScription – CEO
Well, it's both, but it's actually a little more of the latter. In other words, we wanted to make it a level playing field for vendors, and vendors are going to have additional requirements put on them, besides the fact that they have to come, they have to travel to the site where the certification occurs, which is expensive. They're also going to have labeling requirements put upon them. And, in the future, what I'm hoping … opens the door for is that if we want to, we can put other requirements on vendors. For example, the thing that's called out in the letter would be to say vendors have to give alerts to – patient safety alerts to all of their customers.

And so, it seems to me that there's like a higher bar for vendors, so it just seemed like the right thing to do. I think it's particularly the right thing to do when you look at things like open source software. I don't think you want to certify a piece of open source software at one location and now say you're necessarily done for absolutely everybody. That was the reason for our doing that.

David Blumenthal – Department of HHS – National Coordinator for Health IT
What you're concerned about is that a self-developed software will be site certified and that a vendor will then get access to it and will have been able to forego the costs of certification.

Paul Egerman – eScription – CEO
That's correct.

David Blumenthal – Department of HHS – National Coordinator for Health IT
Okay.

Paul Egerman – eScription – CEO
And it happens frequently too. There's good reason why organizations want to monetize their investment or development investment. They will take sections of what they've done, and we'll have a vendor sell it because the vendor will frequently change it anyway before the put it in the marketplace.

David Blumenthal – Department of HHS – National Coordinator for Health IT
Okay.

Paul Tang - Palo Alto Medical Foundation - Internist, VP & CMIO
Any other questions from the group?

Connie Delaney – University of Minnesota School of Nursing – Dean
Paul, this is Connie.

Paul Tang - Palo Alto Medical Foundation - Internist, VP & CMIO
Yes, Connie.

Connie Delaney – University of Minnesota School of Nursing – Dean
Just as a summary point, in listening to the feedback of a number of systems persons, can there be just a summary comment on how confident we are that I first applaud to the changes and the flexibility that have been built in. Second, can we have kind of just a comment on level of comfortableness that we have addressed the need for flexibility that still accommodates the systems thought that it's too big of a step? Do we think we've struck the balance between pushing the system and accommodating the need for flexibility?

Paul Egerman – eScription – CEO
It's Paul Egerman. It's a great question, and the reason I say great question is it's hard to answer. It's certainly hard to know for sure. I would make the comment that a lot of the answer to that question actually relates to what's in the IFR as opposed to the NPRM. The NPRM is really process related. In other words, it sort of says who is going to do the certification, where it's going to be done, how it's going to be done, but it doesn't tell you actually what is going to get certified, and that's really in the IFR.

I think the IFR is where most of the response to your concern is, which is, well, did we specify too little or too much. In other words, did we give too much flexibility or too little flexibility, or did we hit the sweet spot? It's a hard one to answer. I think we're going to find out as we roll this process out.

Rick Chapman – Kindred Healthcare – Chief Administrative Officer/CIO/EVP
This is Rick Chapman. Paul, I'd like to just add to Connie's comment that we all need to keep into perspective one of the reasons that we recommended in the area of revocation that ONC have more flexibility in their ability to take away such a privilege is that we probably, there may be holes at this stage of our thinking, and I think, as we're dealing with meaningful use, we all need to mature our thinking, as we get a little more experienced. So it's a great question, but I think this is going to be somewhat of a learning process for us, as we go on to later stages, and as long as we have the transparency and accountability, and we have the ability of ONC to step in and act if we see some things that we missed, then our committee can address them later.

Paul Egerman – eScription – CEO
That's a good point. That's probably a better answer than I gave to … comment, so good point.

Connie Delaney – University of Minnesota School of Nursing – Dean
Thank you both for your comments.

Paul Tang - Palo Alto Medical Foundation - Internist, VP & CMIO

Any further comments from the group or questions? Okay. Why don't we go ahead, while this is fresh in our mind, and take a vote on whether the committee approves this letter to be sent on to ONC as feedback on the NPRM? All in favor?

M
Aye.

M
Aye.

M
Aye.

M
Aye.

M
Aye.

M
Aye.

Paul Tang - Palo Alto Medical Foundation - Internist, VP & CMIO
And any opposed? And any abstentions? Okay. Thank you very much. So now we'll move on to the privacy and security comments on the section of the NPRM that deals with that. Deven or Rachel?

Deven McGraw - Center for Democracy & Technology – Director
Yes. I think it's just me. We spent a little bit of time talking about this on our last call, and gave some folks some additional time to weigh in because our last call was about a little over a week ago, and so, at that point, a lot of folks hadn't even had a chance to read the rule yet, so we didn't get a lot of comments in. But the few that we did receive were related to the certification of EHR modules for the privacy and security certification criteria. This is another one of those areas where … asked for comment on this section of the rule.

Essentially what's in the temporary certification rule is that EHR modules, in order to be certified, must meet all of the privacy and certification criteria with some exceptions. And there were three that were delineated, and exceptions two and three were fairly straightforward. Section two is if an EHR module can demonstrate that it would be technically infeasible for that module to be tested and certified to meet some or all of those privacy and certification criteria. And number three is where the module is designed to perform a specific privacy and security capability. For example, if it's an EHR module that provides audit trail functionality and that's all it does.

But there was one exception that we had sort of read several times. I know I read it several times, and I wasn't exactly sure what it means. One part of it was relatively clear, which is that if the vendors of EHR modules approach certification as an integrated bundle, and they should be certified as though they're a complete EHR, meaning that the bundles sort of collectively meet the privacy and security requirements. That seemed straightforward, and the letter acknowledges that. And consistent with the certification and adoption letter, it says a label should actually indicate that the certification actually applies to those components as a bundle since they're certified together, and then that label should list the components that are included in that certification.

But there was one piece of this exception that was still difficult to understand, and HHS … lay out a scenario where the EHR modules are presented as integrated, and yet there's one or more modules that are out of the end user's direct control, sort of an exception to the exception. And one of the reasons why it didn't make a whole lot of sense is because, for certification, as was explained in the rule, you don't have to all come together to the certification facility. You could be certified on location, so this notion that it's sort of part of an integrated bundle, and yet not under direct control was a little hard for us to grasp. And so what we suggested here was that ONC be a bit more clear, which is, if they're not being presented in an integrated bundle, then they've got to be separately certified as EHR models, and then having to address all of the privacy and security criteria, unless one of the other two exceptions apply. Similarly, if they're presented as a bundle, then they're certified as a bundle.

What was just very unclear to us is the circumstances under which something could be considered to be integrated, and yet somehow not because one piece of it was hosted offsite. So we just ask for some clarity here, but above all, I think the most important thing we recommend here is endorsing the requirement that EHR modules be certified for all of the privacy and security criteria unless one of the … exceptions applies.

Paul Tang - Palo Alto Medical Foundation - Internist, VP & CMIO
Thanks, Deven. Any comments or questions from the group?

Paul Egerman – eScription – CEO
This is Paul Egerman. I agree with what Deven just said, especially the comment about outside of the user's control, which probably refers to hosted solutions, sometimes called software as a service or ASPs. That really, in my mind, is not necessarily relevant to testing, not necessarily to testing. It may not be relevant to the certification processes. The only question is does it meet the criteria. I certainly agree with the labeling structure that Deven put forward. I thought that was a good recommendation.

Deven McGraw - Center for Democracy & Technology – Director
We borrowed it from you.

Paul Tang - Palo Alto Medical Foundation - Internist, VP & CMIO
Any other questions or comments? Are we ready for a vote on this comment? All in favor?

M
Aye.

W
Aye.

M
Aye.

W
Aye.

M
Aye.

Paul Tang - Palo Alto Medical Foundation - Internist, VP & CMIO

And any opposed? And any abstentions? First, I want to thank Paul Egerman and Marc Probst for really tremendous work on the response to the NPRM on certification process, very well thought out, and similarly to Deven and Rachel for their … on the privacy and security aspects of the NPRM. I think, as David Blumenthal has often said, the workgroups really put their hearts and minds to it, and really delve into the details and try to come up with very constructive feedback, so I'm sure ONC appreciates this. Any other final comments? I want to ask David before he has to leave if he has any other comments. David? He might have left already.

Judy Sparrow – Office of the National Coordinator – Executive Director
Yes, he had to leave at 10:30.

Paul Egerman – eScription – CEO
Yes. Paul, this is Paul Egerman. I had one final comment, which is, as we're thanking people, we should thank ONC. They did a great job with this NPRM.

Deven McGraw - Center for Democracy & Technology – Director
Yes.

Paul Egerman – eScription – CEO
It's a lot of work, and it actually has to do with this thing called a stark exception. There are a lot of technicalities here, and we're making some minor suggestions, some of them minor, but some of them very important. But they really did a great job.

Paul Tang - Palo Alto Medical Foundation - Internist, VP & CMIO
I've got to second that because it's just not for this. It's all of the ton of all the rules, number of proposed regulations, and getting the grants out. It's a tremendous effort and really in compliance and really following the deadlines, the timelines that were in HITECH, which were extraordinarily aggressive. It's really hats off to this office that's been able to accomplish so much in so little time and, I think, really, has set up the country for a great move forward, especially with the passage of the Reform Bill, etc. Thanks to the Office. Thanks for all the folks who support the office. Any other final comments?

M
No.

Judy Faulkner – Epic Systems – Founder
Paul?

Paul Tang - Palo Alto Medical Foundation - Internist, VP & CMIO
Yes.

Judy Faulkner – Epic Systems – Founder
This is Judy. We just had a question here about re-certification if you've already been certified and then there's an upgrade. Can you explain how that goes? I might have missed it because I joined a little bit late on this.

Paul Tang - Palo Alto Medical Foundation - Internist, VP & CMIO
Is that an upgrade to your software?

Judy Faulkner – Epic Systems – Founder
Yes, our software upgrade, so it was certified, and then there's always upgrades.

Paul Tang - Palo Alto Medical Foundation - Internist, VP & CMIO
Right. Paul Egerman, you're probably in the best position to answer that, at least as far as what we know.

Paul Egerman – eScription – CEO
There's sort of like two aspects to upgrades, Judy: one that is covered in the NPRM and one that isn't. The one that is covered, we commented on, and that has to do with minimum standards, so if there's an HL-7 2.5.1, and then there becomes an HL-7 2.5.2. Basically our comment was, existing users can go to 2.5.2 whenever they want to, and there's a process in place that if ONC wants to raise the floor for certification for future vendors to go to 2.5.2, there's a process they can do to do that. That's one kind of upgrade. Now you're probably talking about functional upgrades.

Judy Faulkner – Epic Systems – Founder
Yes. I'm talking about when the vendor releases a product, and then, six months later, makes some additions.

Paul Egerman – eScription – CEO
Yes. That's not specifically called out in the NPRM. It probably is called out in the maze of technical rules that exist. But it's sort of like not an issue that I'm real concerned about because I believe that there is, in the maze of all the rules, a process for vendors to certainly make upgrades and changes to functionality. There's certainly no problem making changes to functionality that's not covered by the NPRM.

Judy Faulkner – Epic Systems – Founder
Okay. So that's all right then. All right. I just wanted to confirm that.

Paul Egerman – eScription – CEO
The other part of the process that's important that actually we're going to make a comment on this again because there are two programs, there's the temporary program, and there's a permanent program. In the permanent program, we're going to make a comment about the concept of surveillance, and so that there is a process so that basically the certification organization can do surveillance of the marketplace. Where there's a concern is a variation of what you're asking about Judy that exists right now where the vendors can put forward something for testing. But what they sell in the marketplace is something less than what they put forward. It's sort of like, you could sort of picture what that's all about, and so there'll be a surveillance process. All together, I do not believe that this will limit your ability in any way to do….

Judy Faulkner – Epic Systems – Founder
To do upgrades.

Paul Egerman – eScription – CEO
To do the upgrades.

Judy Faulkner – Epic Systems – Founder
Okay. Great. All right.

Paul Tang - Palo Alto Medical Foundation - Internist, VP & CMIO
Thanks, Judy. Judy Sparrow, do you want to open it up for public comment, please?

Judy Sparrow – Office of the National Coordinator – Executive Director

Yes, please. Operator, if you would tell the public how to dial in and remind the public, state your name, your organization, and you have a three-minute limit on comments.

Operator
Yes. (Directions given.) We do have questions at this time. Our first question comes from Pamela Ballou-Nelson from Adventis Health Network.

Pamela Ballou-Nelson – Adventis Health Network – Clinical Quality Director
Yes. Thank you. This is Pamela Ballou-Nelson, Clinical Quality Director for the Adventis Health Network PHO Physician Hospital Organization. For the first presenter, could you go back to your point number four? You gave six points, and you were talking about minimum standards. If you could clarify and repeat what that number four was please.

Paul Egerman – eScription – CEO
Judy, do you want me to do that?

Judy Sparrow – Office of the National Coordinator – Executive Director
Yes. That's okay.

Paul Egerman – eScription – CEO
This is Paul Egerman. What was in the NPRM was a description about something that is called minimum standards or floors in the IFR, so this relates to like code sets as an example where a version number for, say, LOINC, or this relates to the example I just gave to Judy Faulkner about a version number of an HL-7 standard.

The NPRM describes a process by which if ONC wants to, it can sort of raise the floor, as it were, from one version to another, and so there's sort of like a public process to do that if new versions come out. Our comment, the recommendation related to that was that that's okay only as it relates to testing of new software. That it should not relate to an existing user. For example, if you have implemented HL-7 2.5.1, and then for some reason ONC raises the floor to 2.5.2, you don't have to do anything. Vice versa, if 2.5.2 comes out and you want to go to it, you don't lose your certification status. It sounds like that's the answer you were hoping for.

Pamela Ballou-Nelson – Adventis Health Network – Clinical Quality Director
Yes. That's what I needed to know. Thank you very much.

Judy Sparrow – Office of the National Coordinator – Executive Director
Thank you, Ms. Nelson. Any other public comments?

Operator
Yes. Our next question comes from Brian Ahier.

Brian Ahier – Mid-Columbia Medical Center – Health IT Evangelist
Thank you for making this available to us on the phone today. My question is, the documents that you referenced today that the committee just approved, the recommendation letters, I don't see those posted anywhere on the Web site, and it was hard to follow along.

Judy Sparrow – Office of the National Coordinator – Executive Director
Yes, I got them late on the weekend, so they should be going up. I thought they would already be there, but I'll check on that, Brian.

Brian Ahier – Mid-Columbia Medical Center – Health IT Evangelist
Okay. Thank you very much.

Judy Sparrow – Office of the National Coordinator – Executive Director
You're welcome.

Paul Egerman – eScription – CEO
Yes, Brian. It's Paul Egerman. I also apologize for that, but we just had a tight schedule. There were obviously religious holidays and the timing of the temporary program, the response is due April 8th or 9th. I forget which, and so that made it a little bit difficult.

Brian Ahier – Mid-Columbia Medical Center – Health IT Evangelist
If they were approved without any changes, it should be pretty smooth.

Judy Sparrow – Office of the National Coordinator – Executive Director
Right. They'll go right up.

Brian Ahier – Mid-Columbia Medical Center – Health IT Evangelist
Thank you.

Judy Sparrow – Office of the National Coordinator – Executive Director
Any other public comment?

Operator
Yes. Our next question comes from Richard Jackson.

Richard Jackson – Business Process Consulting – Productivity Consultant
Yes. Richard Jackson speaking from Business Process Consulting representing C-Tech Medical Technologies. I suggest to assist the workgroups that the nist.gov PIV process for testing be looked into. That's in regard to HSPD12 and PHIPs 201.

Judy Sparrow – Office of the National Coordinator – Executive Director
Thank you very much. Any other comments?

Operator
Yes. Our next question comes from John Travis.

John Travis – Cerner – Sen. Dir. & Solution Strategist – Regulatory Compliance
Hello. This is John Travis with Cerner. Two comments, and maybe they're clarifications, maybe they're suggestions for the letter. I think there was a comment made about what I would call inheritance of certification status going version to version for a vendor, so if you certify on one version and, relative to the subject matter, what was certified, you didn't do anything to that capability until the next version, we just want to be clear. If we can make an assumption that that certification status goes with that next version, if we're talking same basis of certification, same basis of meaningful use, that that's kind of the first point.

The second comment, I don't know if you'd want to comment on your letter, but I think the NPRM asked for comment on whether or not the differential certification requirement that's in the permanent program

would apply to the temporary to the permanent program when that transitions. Certainly we would favor that because if the recognition is there of the certification for stage one, and those requirements carry forward and are unchanged, the software is unchanged, there seems to be a tremendously redundant effort for vendors to go re-certify on the basis of stage one all over again for the permanent program, so just a couple of thoughts to offer.

Judy Sparrow – Office of the National Coordinator – Executive Director
Thank you very much.

Paul Egerman – eScription – CEO
Judy, I just want to respond, if you don't mind. This is Paul Egerman. John, thank you for those comments. I would suggest that what you might want to do, Cerner may want to do this, and Epic might want to do this also is you ought to consider sending in your own letter on these issues.

John Travis – Cerner – Sen. Dir. & Solution Strategist – Regulatory Compliance
And we have.

Paul Egerman – eScription – CEO
That would be my recommendation.

Judy Faulkner – Epic Systems – Founder
Yes, I think we have too, Paul.

Paul Egerman – eScription – CEO
Okay.

Judy Sparrow – Office of the National Coordinator – Executive Director
Thank you. Any other public comment?

Operator
Yes, our next question comes from Mr. Sar Dusai.

Sar Dusai
Yes, hello. Thank you for giving me this opportunity. My question is related to the upgrade. Let's say what we are going to do is we have a legacy application for the billing where we're applying for the certificates, and now after temporary certificates, and we are planning to … application to match the new requirements and all that, so will we be able to do that, or once the certification has been issued, we cannot merge the two components?

Judy Sparrow – Office of the National Coordinator – Executive Director
Paul, any comment on that?

Paul Egerman – eScription – CEO
I didn't understand the question. Marc, did you?

Marc Probst – Intermountain Healthcare – CIO
Actually, no.

Paul Tang - Palo Alto Medical Foundation - Internist, VP & CMIO
I think the comment or the question actually was the same as Judy's and the Cerner question.

Paul Egerman – eScription – CEO
It's sort of like inherent….

Sar Dusai
If I can define it like most specifically, can we consider component like clinical components, and we have another application for billing component. Now we are trying to merge both the components after the temporary certificates, and because we don't have enough time, so I was wondering. Will we be able to do that later on, or we have to do that before we apply for the certification?

Paul Egerman – eScription – CEO
Again, I'm not too sure I know what you mean by merging the component.

Sar Dusai
It's like two separate components, like the clinical component. We have just … as for the clinical requirements, as for the meaningful use requirements and all that. But the billing component, still like we're going to leave it the way it is. And after the certificates and like once we get the certificates, and we are planning to upgrade the billing component, and then we are trying to make it as one application, and so that is what my question was basically. Is it clear?

Paul Egerman – eScription – CEO
This is Paul Egerman speaking. It sounds similar to the comments that we've had before, and the question is, at what point are you doing sort of like minor upgrades or functional upgrades, and at what point is it a new product that has to go through certification again. It's a good question that I don't know the answer for that.

Marc Probst – Intermountain Healthcare – CIO
I think it's one we need to discuss, Paul.

Paul Egerman – eScription – CEO
Yes. I think it needs to be discussed. It is interesting that the public comments are consistent on a single theme. I appreciate the comment.

Sar Dusai
How am I going to get the response then?

Judy Sparrow – Office of the National Coordinator – Executive Director
Just a reminder that this is advice and recommendations from the policy committee to HHS, and it will come out in the final determination.

Paul Egerman – eScription – CEO
As I said, it's a good comment. Instead of me necessarily answering questions … concern … make a recommendation.

Judy Faulkner – Epic Systems – Founder
Paul, when you said to make sure to write in, to whom? I know that there have been comments before about make sure you write to the right place. What is the right place when you write?

Judy Sparrow – Office of the National Coordinator – Executive Director
It's in the regulation, Judy. But you can send it to me, and I'll make sure it gets to the right person.

Judy Faulkner – Epic Systems – Founder
Yes. Okay, because I think – didn't David Blumenthal say not to him?

Judy Sparrow – Office of the National Coordinator – Executive Director
That's right.

Judy Faulkner – Epic Systems – Founder
Okay.

Paul Egerman – eScription – CEO
Yes, although the letter….

Judy Faulkner – Epic Systems – Founder
Okay.

Sar Dusai
Thank you.

Judy Sparrow – Office of the National Coordinator – Executive Director
Thank you, Mr. Dusai. Any other public comments?

Operator
Yes, our next question comes from Kiran Purani.

Kiran Purani
Good morning. This is Kiran Purani from … Solution. I just want to appreciate all the hard work you guys have done, and make two brief comments. We are basically an innovation … company, and we really would like, moving forward, to make sure that the certification process and the company that does the certification, there is no conflict of interest between those entities. I'm just wondering if you guys have any policies in terms of there's no relationship between the certification companies. Obviously they'll be independent.

And the second comment I want to make in the certification process, are there any penalties? And there should be penalties if the companies that are certified and, for any reason, technical or functional reason, they break their certification process or the next version really doesn't deliver what they were certified as they promised or they were certified during the process. I think that penalties should promote the quality of certification. Thank you.

Judy Sparrow – Office of the National Coordinator – Executive Director
Thank you. Any other public comment?

Operator
We have no further questions.

Judy Sparrow – Office of the National Coordinator – Executive Director
Great. Any final comments from the committee?

Paul Egerman – eScription – CEO

This is Paul Egerman. I just want to reiterate, the people who made these comments should go ahead and send some of these things in, like the last comment about the concerns about what might happen if you break your certification. You should make those comments, and you have to correct me if I've got this wrong. The comments are due April 9th.

Judy Sparrow – Office of the National Coordinator – Executive Director
That's correct.

Paul Egerman – eScription – CEO
Which is only in a few days.

Judy Sparrow – Office of the National Coordinator – Executive Director
Right.

Paul Egerman – eScription – CEO
On the temporary program. On the permanent program, it's another month, so on the permanent program, you have until the beginning of May.

Judy Sparrow – Office of the National Coordinator – Executive Director
Right.

Paul Egerman – eScription – CEO
Excellent comments.

Judy Sparrow – Office of the National Coordinator – Executive Director
Yes. Thank you, everybody. Dr. Tang?

Paul Tang - Palo Alto Medical Foundation - Internist, VP & CMIO
Great. Thank you, everyone, and thanks to the public, thanks to the committee members for a quick turnaround on this call. And thanks again to the workgroup members who put together these comments. See you in a couple of weeks.

Judy Sparrow – Office of the National Coordinator – Executive Director
Right. Thanks, Paul.

Paul Tang - Palo Alto Medical Foundation - Internist, VP & CMIO
Thanks, everybody.

W
Thank you.

M
Thank you all.